



February 23, 2016

ENGROSSED HOUSE BILL No. 1075

DIGEST OF HB 1075 (Updated February 22, 2016 12:33 pm - DI 84)

Citations Affected: IC 8-1; IC 35-44.1; IC 36-9.

Synopsis: Sewage fees and municipal sanitary sewer. Provides that if a wastewater utility charges different rates for different classes of property based at least partially on consumption, the utility must charge a rental unit community a rate based at least partially on consumption. Provides that this rule applies whether or not the utility is under the jurisdiction of the Indiana utility regulatory commission. Exempts a property owner from being required by a municipality to connect to the municipality's sewer system and discontinue the use of the property owner's own sewage disposal system if: (1) the property is located outside the boundaries of the municipality; (2) the property owner's sewage disposal system is a septic tank soil absorption system or a constructed wetland septic system that was new at the time of installation and was approved in writing by the local health department; and (3) the property owner obtains a written determination from the local health department that the septic tank soil absorption system or constructed wetland septic system is not failing. Establishes a
(Continued next page)

Effective: January 1, 2016 (retroactive); July 1, 2016.

**Beumer, Bacon, Niezgodski,
Wolkins**

(SENATE SPONSORS — BECKER, BASSLER, NIEMEYER, BOOTS,
BROWN L)

January 5, 2016, read first time and referred to Committee on Environmental Affairs.
January 28, 2016, amended, reported — Do Pass.
February 1, 2016, read second time, ordered engrossed. Engrossed.
February 2, 2016, read third time, passed. Yeas 72, nays 23.

SENATE ACTION

February 8, 2016, read first time and referred to Committee on Environmental Affairs.
February 22, 2016, reported favorably — Do Pass.

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procedure and deadlines for applying for the exemption. Provides that the exemption is for a period of 10 years beginning on the date on which the property owner's septic tank soil absorption system or constructed wetland septic system was installed. Provides that a property owner's initial 10 year exemption from the requirement to connect to a municipality's sewer system may be renewed for not more than two additional five year periods as long as the conditions for the exemption continue to be met. Specifies that the total period during which a property owner may be exempt from the requirement to connect to a municipality's sewer system may not exceed 20 years. Provides that if ownership of the property is transferred during an exemption period, the exemption continues to apply to the property for the remainder of the exemption period and the transferee may apply for any exemption renewals for which the previous property owner would have been entitled to apply. Limits the amount that a property owner may be required to pay for connecting to a municipality's sewer system if the property owner, during an exemption period, consents to the connection of the property to the municipality's sewer system. Provides that a person who gives a false report concerning a septic tank soil absorption system or constructed wetland septic system in order to qualify for the exemption from connecting to a municipality's sewer system, knowing the report to be false, commits false informing, a Class B misdemeanor.



February 23, 2016

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1075

A BILL FOR AN ACT to amend the Indiana Code concerning local government and utilities.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-2-61.8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 61.8. (a) As used in this section, "rental unit**
4 **community" has the meaning set forth in IC 36-1-20-1.5.**
5 **(b) As used in this section, "utility" refers to a wastewater**
6 **utility, whether or not the utility is under the jurisdiction of the**
7 **commission for the approval of rates and charges.**
8 **(c) If a utility charges different rates for different classes of**
9 **property based at least partially on consumption, the utility must**
10 **charge a rental unit community a rate based at least partially on**
11 **consumption.**
12 **(d) A rate for a rental unit community required by subsection**
13 **(c) takes effect as follows:**
14 **(1) If the utility is not under the jurisdiction of the commission**

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for the approval of rates and charges, the first date after June 30, 2016, that a change in the utility's rate structure becomes effective.

(2) If the utility is under the jurisdiction of the commission for the approval of rates and charges, the first date that a change in the utility's rate structure becomes effective after either of the following has occurred:

(A) The commission began review of the utility's rates after June 30, 2016.

(B) The utility sought a change in the utility's rates after June 30, 2016.

SECTION 2. IC 35-44.1-2-3, AS AMENDED BY P.L.168-2014, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: Sec. 3. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) As used in this section, "misconduct" means a violation of a departmental rule or procedure of a law enforcement agency.

(c) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

(1) the person or another person has placed or intends to place an explosive, a destructive device, or other destructive substance in a building or transportation facility;

(2) there has been or there will be tampering with a consumer product introduced into commerce; or

(3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;

knowing the report to be false, commits false reporting, a Level 6 felony.

(d) A person who:

(1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;

(2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;

(3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false;

(4) gives a false report concerning a missing child (as defined in IC 10-13-5-4) or missing endangered adult (as defined in IC 12-7-2-131.3) or gives false information in the official investigation of a missing child or missing endangered adult knowing the report or information to be false;

(5) makes a complaint against a law enforcement officer to the



state or municipality (as defined in IC 8-1-13-3(b)) that employs the officer:

(A) alleging the officer engaged in misconduct while performing the officer's duties; and

(B) knowing the complaint to be false;

(6) makes a false report of a missing person, knowing the report or information is false; or

(7) gives a false report of actions, behavior, or conditions concerning:

(A) a septic tank soil absorption system under IC 8-1-2-125 or IC 13-26-5-2.5; **or**

(B) a septic tank soil absorption system or constructed wetland septic system under IC 36-9-23-30.1;

knowing the report or information to be false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to another person.

SECTION 3. IC 36-9-23-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]:
Sec. 30. (a) Subject to subsection (b) **and section 30.1 of this chapter**, a municipality that operates sewage works under this chapter or under any statute repealed by IC 19-2-5-30 (repealed September 1, 1981) may require:

(1) connection to its sewer system of any property producing sewage or similar waste; and

(2) discontinuance of the use of privies, cesspools, septic tanks, and similar structures.

(b) A municipality may exercise the powers granted by subsection (a) only if:

(1) there is an available sanitary sewer within three hundred (300) feet of the property line of the affected property; and

(2) it has given notice by certified mail to the property owner at the address of the property, at least ninety (90) days before the date specified for connection in the notice.

(c) A municipality may establish, enforce, and collect reasonable penalties for failure to make a connection under this section.

(d) A municipality may apply to the circuit or superior court for the county in which it is located for an order to require a connection under this section. The court shall assess the cost of the action and reasonable attorney's fees of the municipality against the property owner in such an action.

SECTION 4. IC 36-9-23-30.1 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: **Sec. 30.1. (a)**

As used in this section, "constructed wetland septic system" means a residential sewage disposal system that includes:

(1) a septic tank or other type of primary wastewater treatment system; and

(2) a constructed wetland cell in which:

(A) effluent flows on top of soil or through a porous medium such as pea gravel;

(B) wetland plants are growing, and their roots and stems form a dense mat;

(C) suspended solids and trace metals in the effluent settle and are filtered; and

(D) organisms living in the water, on the soil or gravel, and on the stems and roots of the wetland plants feed on the organic materials and nutrients in the effluent.

(b) For purposes of this section, a sewage disposal system is "failing" if one (1) or more of the following apply:

(1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing fixtures.

(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters.

(3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.

(c) As used in this section, "qualified inspector" means any of the following:

(1) An employee of a local health department who is designated by the local health department as having knowledge of onsite sewage systems sufficient to determine whether an onsite sewage system is failing.

(2) An individual who is certified by the Indiana Onsite Wastewater Professionals Association as an onsite sewage system installer or inspector.

(3) An individual listed by:

(A) the state department of health; or

(B) the local health department with jurisdiction over the service area of the property inspected;

as having sufficient knowledge of onsite sewage systems to determine whether an onsite sewage system is failing.



1 (d) Subject to subsections (e) through (k), a property owner is
2 exempt from the requirement to connect to a municipality's sewer
3 system and to discontinue use of the property owner's sewage
4 disposal system if all of the following conditions are met:

5 (1) The property of the property owner is located outside the
6 boundaries of the municipality.

7 (2) The property owner's sewage disposal system on the
8 property is a septic tank soil absorption system or constructed
9 wetland septic system that:

10 (A) was new at the time of installation; and

11 (B) was approved in writing by the local health
12 department.

13 (3) Within sixty (60) days after the property owner is notified
14 under section 30 of this chapter that the municipality is
15 requiring connection to its sewer system and discontinuance
16 of use of the property owner's sewage disposal system, the
17 property owner notifies the municipality in writing that the
18 property owner is claiming the exemption provided by this
19 section.

20 (4) The property owner, at the property owner's expense,
21 obtains a written determination from:

22 (A) the local health department;

23 (B) the local health department's designee;

24 (C) if subsection (f) applies, a qualified inspector; or

25 (D) if subsection (g) applies, the board of the local health
26 department;

27 that the septic tank soil absorption system or constructed
28 wetland septic system is not failing.

29 (5) The property owner provides to the municipality a copy of
30 the written determination described in subdivision (4) within
31 one hundred twenty (120) days after the property owner is
32 notified under section 30 of this chapter that the municipality
33 is requiring connection to its sewer system and discontinuance
34 of use of the property owner's sewage disposal system.

35 (e) If a property owner, within the time allowed under
36 subsection (d)(3), notifies the municipality in writing that the
37 property owner is claiming the exemption provided by this section,
38 the municipality shall suspend the requirement that the property
39 owner discontinue use of the property owner's sewage disposal
40 system and connect to the municipality's sewer system until the
41 property owner's eligibility for the exemption under this section is
42 determined.



(f) The local health department or the designee of the local health department shall provide the property owner with a written determination under subsection (d)(4) within sixty (60) days after receiving the property owner's request for the determination. If the local health department or its designee fails to provide a written determination in response to a property owner's request under subsection (d)(4) within sixty (60) days after receiving the request, the property owner, at the property owner's expense, may obtain a written determination from a qualified inspector.

(g) If the local health department or the department's designee, in response to a property owner's request under subsection (d)(4), determines that a septic tank soil absorption system or constructed wetland septic system is failing, the property owner may appeal the determination to the board of the local health department. The decision of the board as to whether the septic tank soil absorption system or constructed wetland septic system is failing is final and binding for purposes of this section.

(h) If a property qualifies under subsections (d) through (g) for the exemption provided by this section:

(1) the property owner is exempt from the requirement to connect to the municipality's sewer system for a period of ten (10) years beginning on the date on which the property owner's septic tank soil absorption system or constructed wetland septic system described in subsection (d)(2) was installed; and

(2) the property owner may renew the initial ten (10) year exemption described in subdivision (1) by seeking to obtain not more than two (2) additional five (5) year exemptions after the initial exemption expires by meeting the conditions set forth in subsection (i) for each five (5) year exemption. Each additional exemption under this subdivision begins on the date the previous exemption would otherwise expire.

The total period during which a property owner may be exempt from the requirement to connect to a municipality's sewer system under this subsection may not exceed twenty (20) years.

(i) A property owner qualifies for an exemption renewal as described in subsection (h)(2) if all of the following conditions are met:

(1) The property continues to meet the conditions set forth in subsection (d)(1) through (d)(2).

(2) Not less than one hundred twenty (120) days before the expiration of:



- 1 (A) the property owner's initial exemption described in
- 2 subsection (h)(1); or
- 3 (B) the property owner's previous renewal of an exemption
- 4 described in subsection (h)(2);
- 5 the property owner notifies the municipality in writing that
- 6 the property owner is seeking the renewal of an exemption
- 7 under this section.
- 8 (3) The property owner, at the property owner's expense,
- 9 obtains another written determination from:
- 10 (A) the local health department;
- 11 (B) the local health department's designee;
- 12 (C) a qualified inspector; or
- 13 (D) the board of the local health department;
- 14 as applicable, that the septic tank soil absorption system or
- 15 constructed wetland septic system is not failing.
- 16 (4) The property owner provides to the municipality a copy of
- 17 the written determination described in subdivision (3) not less
- 18 than thirty (30) days before the expiration of the property
- 19 owner's:
- 20 (A) initial exemption described in subsection (h)(1); or
- 21 (B) previous exemption renewal period described in
- 22 subsection (h)(2).
- 23 The local health department or the designee of the local health
- 24 department shall provide the property owner with a written
- 25 determination under subdivision (3)(A) or (3)(B) within sixty (60)
- 26 days after receiving the property owner's request for the
- 27 determination. If the local health department or its designee fails
- 28 to provide a written determination under subdivision (3)(A) or
- 29 (3)(B) within sixty (60) days after receiving a property owner's
- 30 request, the property owner, at the property owner's expense, may
- 31 obtain a written determination from a qualified inspector under
- 32 subdivision (3)(C). If the local health department or the
- 33 department's designee determines that a septic tank soil absorption
- 34 system or constructed wetland septic system is failing, the property
- 35 owner may appeal the determination to the board of the local
- 36 health department under subdivision (3)(D), but the decision of the
- 37 board as to whether the septic tank soil absorption system or
- 38 constructed wetland septic system is failing is final and binding for
- 39 purposes of this section.
- 40 (j) If a property qualifies for the exemption provided by this
- 41 section and ownership of the property is transferred during a valid
- 42 exemption period, including an exemption renewal period



described in subsection (h)(2):

(1) the exemption continues to apply to the property for the remainder of the exemption period during which the transfer occurs; and

(2) the transferee may apply for any exemption renewals under subsection (h)(2) that the previous property owner would have been entitled to apply for under this section.

(k) If a property owner whose property qualifies for an exemption under this section, including a transferee described in subsection (j), discontinues use of the property owner's septic tank soil absorption system or constructed wetland septic system and consents to the connection of the property to the municipality's sewer system, the property owner may not be required to pay more than the following to connect to the municipality's sewer system:

(1) The connection fee the property owner would have paid if the property owner had connected to the municipality's sewer system on the first date on which the property owner could have connected to the sewer system.

(2) Any additional costs:

(A) considered necessary by; and

(B) supported by documentary evidence provided by; the municipality.

SECTION 5. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1075, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning local government and utilities.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-61.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 61.8. (a) As used in this section, "rental unit community" has the meaning set forth in IC 36-1-20-1.5.**

(b) As used in this section, "utility" refers to a wastewater utility, whether or not the utility is under the jurisdiction of the commission for the approval of rates and charges.

(c) If a utility charges different rates for different classes of property based at least partially on consumption, the utility must charge a rental unit community a rate based at least partially on consumption.

(d) A rate for a rental unit community required by subsection (c) takes effect as follows:

(1) If the utility is not under the jurisdiction of the commission for the approval of rates and charges, the first date after June 30, 2016, that a change in the utility's rate structure becomes effective.

(2) If the utility is under the jurisdiction of the commission for the approval of rates and charges, the first date that a change in the utility's rate structure becomes effective after either of the following has occurred:

(A) The commission began review of the utility's rates after June 30, 2016.

(B) The utility sought a change in the utility's rates after June 30, 2016."

Page 6, delete lines 1 through 15, begin a new line block indented and insert:

"(2) the property owner may renew the initial ten (10) year exemption described in subdivision (1) by seeking to obtain not more than two (2) additional five (5) year exemptions after the initial exemption expires by meeting the conditions set forth in subsection (i) for each five (5) year exemption.



Each additional exemption under this subdivision begins on the date the previous exemption would otherwise expire. The total period during which a property owner may be exempt from the requirement to connect to a municipality's sewer system under this subsection may not exceed twenty (20) years."

Page 6, line 26, delete "(h)(2)(A) or (h)(2)(B);" and insert "**(h)(2);**".

Page 7, line 2, delete "(h)(2)(A) or (h)(2)(B)." and insert "**(h)(2).**".

Page 7, line 23, delete "(h)(2)(A) or (h)(2)(B);" and insert "**(h)(2):**".

Page 7, line 28, delete "(h)(2)(A) or (h)(2)(B)" and insert "**(h)(2)**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1075 as introduced.)

WOLKINS

Committee Vote: yeas 9, nays 3.

COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1075, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB1075 as printed January 29, 2016.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 7, Nays 0

